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**BY EMAIL AND HAND DELIVERY**

New York City Planning Commission  
Hon. Marisa Lago, Chair  
120 Broadway, 31st Fl.  
New York, NY 10271

Re: New York Blood Center – Center East

Dear Chair Lago and Members of the Commission:

We are counsel to Friends of the Upper East Side Historic Districts (“Friends”). We write to urge the Commission to delay certification of the proposed application by the New York Blood Center (the “Applicant”) to rezone its mid-block property at 310 East 67<sup>th</sup> Street from R8B to C2-7 and to create a special permit allowing an unprecedented 10 FAR of commercial uses for scientific research and development facilities in C2-7 districts in Community District 8 in Manhattan, among other proposed amendments. The Applicant would use the zoning amendment to create a nearly 600,000 square foot research lab in a midblock, residential location (the “Project”). The zoning amendment is directly at odds with the Zoning Resolution, decades of zoning policy, and lacks a rational basis. Moreover, the draft scope, and now the DEIS, omit basic facts about the Project that must be understood and addressed to comply with basic requirements of SEQRA and CEQR.

1. Certification is premature. The application is not yet ready for public review because important questions regarding the scope of the Project remain unanswered and unaddressed. As Friends and Borough President Gale Brewer have previously pointed out in letters to the Department of City Planning,<sup>1</sup> the Applicant failed to disclose to the Department or the public in the draft scope that the new facility would include biosafety level 3 laboratories (“BSL-3”), a use that the City’s own Board of Health has stated poses the potential for “catastrophic consequences” in densely populated areas in Manhattan like the development site.<sup>2</sup> Although the CEQR Technical Manual requires evaluation of “reasonably foreseeable catastrophic impacts,” (CEQR Tech. Manual at 1-14, section 242.1) the draft scope failed to include any mention of this potential impact, let alone require its evaluation in the DEIS. The proposed BSL-3 use also raises numerous questions regarding consistency with land use and zoning, mechanical needs, and separation of uses. Yet the project description in the DEIS barely mentions the proposed use, let alone explains it in sufficient detail to enable the reviewing

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<sup>1</sup> See Friends letters dated 2/4/21 and 3/12/21, and Brewer letter dated 2/22/21.

<sup>2</sup> See Notice of Adoption of Amendments to Article 13 of the New York City Health Code <https://www1.nyc.gov/site/doh/about/hearings-and-notices/official-notices-archive.page>.

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agencies and the public to evaluate its impacts. Most importantly, the DEIS is silent as to whether the new commercial labs of the Blood Center's partners would or would not include such uses. The DEIS Land Use Chapter merely states that the 389,800 feet of commercial lab space would be used for Use Group 9 laboratories. DEIS 2-6. Unanswered is whether the Applicant and the lead agency take the position that BSL-3 or BSL-4 labs are permissible uses under Use Group 9. If so, the DEIS must address the potential significant adverse impacts associated with the proposed substantial expansion of such uses in a dense residential neighborhood. If not, the DEIS should clearly state as much and add a mechanism to prevent any bait and switch on that point after environmental review is complete.

Catastrophic consequences associated with expansion of hazardous uses are not a theoretical risk; in its discussion of catastrophic consequences, the Board of Health lists a number of recent incidents at labs throughout the country.<sup>3</sup> As the development site is located in a dense residential neighborhood across the street from a large public school complex, we urge the Commission to ensure that the environmental review adequately assesses this risk and related issues. At a minimum, the DEIS must be amended (i) to describe the scope of BSL-3 uses proposed and how those uses comply with the Project zoning, and (ii) to evaluate the potential impacts of those uses in relevant chapters in the DEIS, including in a new chapter on catastrophic impacts, or (iii) if no such uses are currently proposed for the commercial FAR, to explain the mechanism by which such uses would be prohibited without further public review. Adding such a discussion after the public hearing on the DEIS would be inadequate as it would deprive the public of any opportunity to review and comment.

2. Amending the zoning map and text to permit hundreds of thousands of square feet of "office" space at a time when office vacancies are reaching crisis levels is irrational. Manhattan has an unprecedented glut of commercial office space in Manhattan as a result of the COVID-19 pandemic. The proposed rezoning would create 389,800 gsf of new commercial space at a time when the City's commercial real estate market has a 15 percent vacancy rate – or 68.4 million square feet<sup>4</sup> -- and no clarity regarding how much further that rate may climb as leases terminate and companies reevaluate their space needs. The City is in a crisis. Much of this commercial space is mere blocks away in midtown Manhattan, in existing commercially zoned districts, and in buildings with the large floor plates the Applicant and its partners seek. Friends urges the Commission to delay certification and consider carefully whether the proposed rezoning is really the best way to achieve the City's Life Science economic development goals under the circumstances.

3. The Amendment is directly contrary to three decades of zoning policy to preserve the scale and character of residential mid-blocks, particularly on the Upper East Side. The Amendment and the Project would inflict direct harm on the City's zoning scheme. The Upper East Side is the densest residential district in the City. It remains livable because of the well-considered zoning that has been in place for 35 years that directs higher density and commercial uses onto the wider avenues and lower scale residential development onto the narrow side streets through

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<sup>3</sup> See FN2.

<sup>4</sup> See e.g. John Gittelsohn, Bloomberg Wealth, Jan. 5, 2021 *Manhattan Office Vacancies Soar to a Record with Leasing Frozen*.

R8B zoning. The Blood Center's proposal would rezone a mid-block lot sandwiched between two narrow streets from R8B to C2-7.

4. The Amendment is directly contrary to the Department of City Planning's own goals for C2-7 districts, i.e., residentially compatible commercial zones. Commercial uses in C2-7 districts have always been limited to 2 FAR and mapped on wide streets. Here, amendments to the special permit provisions for Scientific Research and Development Facilities would allow up to 10 FAR of commercial uses in the new C2-7 district. In other words, the special permit amendment would give City Planning the power to convert a C2-7 district, mapped on a narrow street, into the equivalent of a C6 district. To illustrate how contrary this would be to the Department of City Planning's long held views on the purpose and use of C2-7 districts in the City's zoning scheme, one need look no further than the Department's own online description:

C2-6 through C2-8 districts are commercial districts that are predominantly residential in character. They are mapped along major thoroughfares in medium- and higher-density areas of the city, such as Second and Lexington Avenues on the Upper East Side or Columbus and Amsterdam Avenues on the Upper West Side. As in [commercial overlays districts](#), typical retail uses include grocery stores, dry cleaners, drug stores, restaurants and local clothing stores that cater to the daily needs of the immediate neighborhood. . . . The maximum commercial [floor area ratio](#) (FAR) is 2.0.<sup>5</sup>

The proposed new C2-7 district would not be mapped along a major thoroughfare, would not be residential in character or cater to the daily needs of the neighborhood, and would not have a maximum commercial floor area of 2.0. In sum, the Applicant proposes to create a C2-7 district in name only. Instead, this C2-7 district would allow – on a narrow side street in a residential area -- a building with the type of floorplates and bulk typically only seen in Midtown Manhattan, Hudson Yards and the Financial District. We cannot think of a more significant adverse impact to land use and zoning. To the extent the DEIS concludes otherwise we respectfully suggest it is not ready for public review.

5. The proposal is unnecessary by the Applicant's own rationale. The Blood Center readily admits that it could completely rebuild and modernize its facility under current zoning. The Applicant would use the 389,000 square feet of new floor area for revenue-generating rental space to be managed by Longfellow, a for-profit developer of life science space based on Boston. Indeed, other medical facilities in the neighborhood have built additional space without disturbing a zoning scheme that has accommodated both growth and livability. Moreover, the Applicant has not articulated why the three city-owned sites identified in a 2018 City-led RFEI for life science facilities that are more appropriately zoned or located<sup>6</sup> would not be suitable locations for the Applicant. At a minimum, these sites reflecting the City's own policies from 2018 should be evaluated as alternatives in the DEIS.

Friends recognizes that the City has made promoting the life science sector an economic priority and does not question that policy decision or the value of the Blood Center's work. But locating those massive new research facilities in low-rise residential areas when there are

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<sup>5</sup> [Zoning: Districts Guide - Commercial Districts - C1 & C2 - DCP \(nyc.gov\)](#) (as of 4/17/2021)

<sup>6</sup> The City offered potential proposers a site zoned C6-3, a site zoned M1-4 and a site located in the middle of an existing medical complex.

clearly more appropriate alternatives is arbitrary and capricious. Moreover, in this case, due to new information about BSL-3 uses, the action would be unlawful and create unnecessary risks. The DEIS needs to lay out and evaluate those risks, now, before the public comment period begins. We respectfully request that the Commission delay certification and demand that the Applicant answer lingering questions regarding the BSL-3 use and its implications, and modify the Project to respect the long-standing and successful zoning scheme in the densest residential area in the City.

Thank you for your consideration.

Sincerely,



Karen E. Meara

Cc (by email):

Manhattan Borough President Gale Brewer

Council Member Ben Kallos, New York City Council

State Senator Liz Krueger

Assembly Member Rebecca Seawright

Susan Amron, Department of City Planning

Edith Hsu-Chen, Department of City Planning

Olga Abinader, Department of City Planning

Russell Squire, Chair, Community Board 8

Paul Selver, Kramer Levin Naftalis & Frankel LLP